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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

M. AILEEN MORNINGSTAR and	)	Case No. CV 11-00655 DDP (VBKx)
ALICE SLETTEDAHL,	)	
Derivatively on Behalf of	)	
Nominal Defendant RINO	)	
INTERNATIONAL CORPORATION,	)	<b>ORDER DENYING PLAINTIFFS' MOTION</b>
	)	<b>FOR ATTORNEYS' FEES AND</b>
Plaintiff,	)	<b>REIMBURSEMENT OF COSTS</b>
	)	
v.	)	
	)	
ZOU DEJUN, KENNITH C.	)	
JOHNSON, QUAN XIE, BEN WANG,	)	
LI YU, BRUCE RICHARDSON, YI	)	[Dkt. No. 80]
LIU, ZHANG WEIGUO and RINO	)	
INTERNATIONAL CORPORATION,	)	
	)	
Defendants.	)	

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Presently before the court is Plaintiffs' Motion for Attorneys' Fees and Reimbursement of Costs. Plaintiffs here bring a derivative action on behalf of nominal defendant RINO International Corporation. This court also presides over a related class action (the "shareholder class action" or "Stream Sicav"), in which shareholder plaintiffs asserted securities fraud claims

1 against RINO and other defendants.<sup>1</sup> See Stream Sicav v. RINO Int'l  
2 Corp., No. CV 10-8695-DDP.

3 The court recently granted final approval of a settlement in  
4 the shareholder class action, including the creation and  
5 distribution of a \$7 million common settlement fund. (Stream Sicav  
6 Dkt. No. 235.) Derivative Plaintiffs here were not parties to the  
7 shareholder class action, nor did Derivative Plaintiffs' counsel  
8 ("Counsel") represent any party to the shareholder class action.  
9 Nevertheless, Counsel sought attorneys' fees in the related  
10 shareholder class action, without success. (See Order Denying  
11 Derivative Plaintiffs' Ex Parte Application to Intervene, Stream  
12 Sicav Dkt. No. 232.)

13 Having failed to obtain the fees sought in the Stream Sicav  
14 case, Counsel now seeks the exact same relief, namely the payment  
15 of attorneys' fees and costs from the Stream Sicav settlement fund,  
16 in this case. The Stream Sicav settlement, however, has no bearing  
17 on this litigation, which remains in its early stages. To the  
18 extent Counsel seeks fees from the Stream Sicav settlement,  
19 Plaintiffs' motion is DENIED with prejudice.

20 In the alternative, Counsel seeks an award of fees from other  
21 sources, including proceeds of the sales of homes owned by certain  
22 individual defendants in this case. However, given that this case  
23 remains in its early stages, and in light of notice issues relating  
24 to certain individual defendants here, Plaintiff's fee motion is  
25 premature. Accordingly, insofar as Counsel seeks fees in this case  
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28 <sup>1</sup> That related case is ongoing, but only against auditor  
defendants.

1 from sources other than the Stream Sicav settlement, the Motion is  
2 DENIED, without prejudice.

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6 IT IS SO ORDERED.

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9 Dated: February 8, 2013

  
DEAN D. PREGERSON  
United States District Judge